TENTH ANNUAL REPORT

OF

THE DEPARTMENT OF JUSTICE

FOR

PRINCE EDWARD ISLAND

1982

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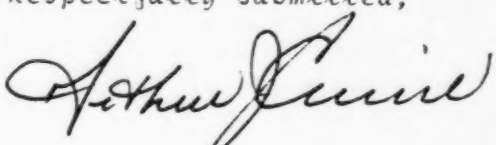
TO:

The Honourable George R. McMahon, Q.C.
Minister of Justice and Attorney General
Province of Prince Edward Island

Sir:

I am pleased to submit herewith the Annual Report of the Department of Justice for the year ending 31 December 1982.

Respectfully submitted,



Arthur J. Currie
Deputy Minister of Justice

TO:

The Honourable J. Aubin Doiron, B.A., D.D.S.,
H.D.H., LL.D.
Lieutenant Governor
Province of Prince Edward Island

May It Please Your Honour:

I have the honour to submit the Tenth Annual Report of the Department of Justice for this province.

I have the honour to be, Sir,

Your obedient servant,

George R. McMahon

George R. McMahon, Q.C.
Minister of Justice and
Attorney General

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INTRODUCTION

Like all other government departments and commissions and agencies, the Department of Justice made every attempt in 1982 to cut costs while at the same time maintaining its service to the public. The general election of 27 September 1982 and subsequent Cabinet changes saw the Honourable George R. McMahon, Q.C. retain the portfolio of Minister of Justice and Attorney General.

UNIFORM LAW CONFERENCE

The annual meeting of the Uniform Law Conference of Canada was held in Montebello, Quebec. Mr. Raymond Moore, Legislative Counsel, represented the Department of Justice together with Mr. John McQuaid, Barrister and Solicitor, and Mr. Hugh MacIntosh, Counsel to the Law Reform Commission of Prince Edward Island.

DEPARTMENTAL DIVISIONS

As of 31 December 1982, the Department of Justice comprised the following divisions:

1) Administration
2) Legal Services
3) Crown Attorneys
4) Judicial
5) Insurance
6) Corrections
7) Probation and Family Court Services
8) Corporations
9) Charlottetown and Summerside Registry Offices
10) Legislative.

In addition, the Liquor Control Commission, the Human Rights Commission, and the Public Utilities Commission are responsible directly to the Minister of Justice.

The Report of the Royal Canadian Mounted Police "L" Division is being tabled in the Legislative Assembly as a separate report.

REPORT OF THE LEGAL SERVICES DIVISION

Legal services are provided to the Premier's Office, Executive Council, Government Departments and some Crown Corporations and Agencies by lawyers employed in the Legal Services Division.

The Division has assigned solicitors to serve specific departments of Government in order to provide a degree of specialization which would not otherwise be possible.

The Legal Services Division represented Government in 1982 on litigation before the various divisions of the Supreme Court of Prince Edward Island as well as in the Supreme Court of Canada. It otherwise represented Government before administrative tribunals and assisted in the drafting of new legislation. It provided legal opinions and advice to Government on the full range of matters involving Government.

Personnel:

Ralph C. Thompson - Director of Legal Services
Charles P. Thompson - Departmental Solicitor
Judith M. Haldemann - Departmental Solicitor
Deborah L. Gillespie - Legal Secretary

REPORT OF CROWN ATTORNEYS

There are three Crown Attorneys responsible for prosecuting all criminal cases under the Criminal Code of Canada and provincial statutes. The Crown Attorney's Office is located in the Sir Louis Henry Davies Law Courts Building and in the Court House in Summerside.

Personnel:

Director of Crown Attorneys - Richard Hubley
Crown Attorney - Darryl Coombs
Crown Attorney (Summerside) - David O'Brien
Secretary - Linda Peters

REPORT OF THE LEGISLATIVE COUNSEL

The Fourth Session of the Fifty-fifth Legislative Assembly was convened on 4 March 1982 and prorogued on 7 May 1982. Royal Assent was given to 35 public Acts and four private Acts.

Due to financial constraints, little progress has been made in improving the procedures for the preparation of bills. A bill is presently keyboarded at least three times and much energy is devoted to proofreading and correction of copy.

The Legislative Counsel represents the Province on the Board of the Canada Law Information Council which continues to develop and promote the use of computerized information retrieval systems. The Legislative Counsel attended the Uniform Law Conference in Montebello, Quebec.

There continue to be serious delays in the preparation and publication of the annual updates to the statutes and regulations. It is anticipated that in the event of new typesetting equipment being available to the Queen's Printer, many of the delays inherent in the present system will be eliminated.

Personnel:

M. Raymond Moore - Legislative Counsel
Secretary - Marina Bears

REPORT OF THE SUPERINTENDENT OF INSURANCE

Insurance:

	1982	1981
Companies registered and licensed.....	229	229
Applicants examined.....	103	99
Insurance agents' licenses issued.....	261	290
Insurance adjusters' licenses issued.....	30	29

Comments:

For some time, consideration has been given to increasing the accident benefits under Section B of the Automobile Policy, and at the same time making the coverage mandatory. Hopefully, this much needed improvement in coverage will come about soon.

Automobile and property insurance experienced a fairly substantial increase in premium in 1982 because of rising repair costs, and also the fact that there had not been a general premium increase for several years. It is expected that only a modest increase will be encountered this year.

During the year, the Facility Association was established in this province and indications are it is working well. This is a device to handle high risks and replaces the Insurance Exchange and is considered a definite improvement for both insureds and agents.

The detailed report of the Superintendent for 1981 is provided separately and licensing statistics for 1982 are set out above. It is noted the total premium is substantially higher than the previous year. It is also interesting to note the constant progress being made by the Prince Edward Island Mutual Fire Insurance Company.

The practice of examing applicants for agents' licenses continues for all classes, and we believe this has greatly improved the calibre of agents and at the same reduced the turnover which was so prevalent in the past.

All persons adjusting insurance claims in the Province must hold a valid license.

The Superintendent attends two national meetings of the Association along with some committee meetings on a regional level. These meetings are important to the welfare of the industry and the people involved therein.

Premium and Fire Prevention Tax:

	1982	1981
Premium tax collected	$801,839.64	$712,957.92
Fire Prevention tax collected	$ 68,997.79	$ 64,301.36
TOTALS	$870,837.43	$777,259.28

Comments:

Premium tax at the rate of 2% is collected on all insurance premiums, except fraternal and marine, written in the Province. The Fire Prevention Tax, which is assessed at 3/4 of 1% of the total fire premium is, basically, designed to defray expenses of the Provincial Fire Marshall's Office. The increase in premium tax is due to a sizeable refund made in 1981 because of an overpayment in 1979.

Official Trustee:

The services of the Official Trustee continue in demand, and there were ninety-six active accounts during the year. Funds held in trust fluctuate and usually run about $300,000. Excess funds are invested in Deposit Certificates with the Minister of Finance. The accounts are reviewed annually by the Auditor General and his report is available elsewhere.

We continue to enjoy a close working relationship with the Division of Aging in the Department of Social Services, and as a result, we are able to have better control of the assets of patients or guests who are considered incompetent. Accounts for these persons are paid until the funds are exhausted. The role of the Official Trustee is increasing quite substantially as all persons admitted to government homes, who are considered incompetent, are declared before admission. He is also called upon to represent estates of deceased persons in certain actions and, of course, continues to act as Administrator of Estates when no one else is available or qualified. The Official Trustee is also appointed guardian in some situations especially in the case where emergency surgery is considered necessary.

The Advisory Committee is consulted from time to time as the need arises.

Real Estate:

Real Estate sales reported by licensed agents amounted to over 32 million dollars in 1982, down about 10% from the previous year. A modest improvement is anticipated for 1983.

151 agents and salespersons were licensed in 1982, which is a considerable reduction from 1981.

New applicants are required to pass a written examination which is administered in this office. All salespeople are bonded.

Personnel:

Milton B. Fitzpatrick - Superintendent of Insurance
Marlene Phelan - Secretary

REPORT OF THE CORPORATIONS DIVISION

Acts Administered:

The Corporations Division of the Department of Justice is responsible for the following Acts:

Companies Act
Condominium Act
Co-operative Associations Act
Corporation Securities Registration Act
Credit Union Act
Licensing Act
Partnership Act
Securities Act
Winding Up Act

Statistics:

Following are statistics which pertain to the various statutes administered by the Corporations Division:

Companies Act

	1982	1981
- Incorporations during the year		
Business corporations	175	265
Not-for-profit corporations	16	27
Total new corporations	191	292
- Surrender of charters by companies under Section 73 of the Companies Act	12	12
- Forfeiture of charter of a company under Section 72 of the Companies Act	-	1
Total Corporations dissolved	12	13
- Supplementary letters patent granted to companies		
For a change of corporate objects	3	8
For a change of capital stock	21	21
For a change of name	24	28
	48	57
- Amalgamations during year	4	4
- By-laws filed changing number of directors	1	2
- Reservation of business names for intended corporations or partnerships	273	320

	1982	1981
- Certificates of good standing under the Companies Act and Licensing Act	116	164
- Certified true copies of letters patent and supplementary letters patent	43	66
- Annual returns filed under Section 80 of the Companies Act	977	1,081

Companies Act Statistics:

The number of incorporations during 1982 was down 35% from the previous year. In several provinces of Canada there was an even greater decline in incorporations in 1982, and this trend across Canada reflects the economic downturn of the day. It is also a reversal of the trend of the previous few years where there was a phenomenal growth in the number of new corporations formed.

Co-operative Associations Act:

There are some fifty active co-operatives in the Province and those are reported on separately in the Annual Report of the Inspector of Co-operatives, which is also tabled in the Legislature.

During 1982 there were 12 new co-operatives incorporated whereas three were incorporated in 1981.

Corporations Division staff continue to work closely with co-operatives, especially through the Co-operative Union of Prince Edward Island, which acts as the voice of the co-operative movement in Prince Edward Island.

Corporation Securities Registration Act:

Registrations under this Act totalled 270 in 1982 and 284 in 1981. In recent years, requests for Certificates of Status have increased and commencing in 1981, these statistics were reported with 104 certificates being issued during the year. In 1982 there were 81 certificates of status issued.

Credit Union Act:

The Credit Union Act is administered by the P.E.I. Credit Union League Limited, which also carries out inspections of credit unions. A separate report on credit unions, as compiled by the League, is also presented in the Legislature.

The Credit Union League staff communicates regularly with the Department to keep it informed about the credit union movement.

Licensing Act:

All out-of-province businesses carrying on business in this province are required to register under the Licensing Act regardless of whether they have an office or employees in the Province. Such business organizations include banks, trust companies, loan companies, finance companies, chain stores, oil and gas companies, construction companies, manufacturers and generally all corporations not incorporated under the laws of this province and having their head office or chief place of business located outside the Province.

	1982	1981
Corporations and businesses registered under this Act:	1,970	1,852

Partnership Act:

The business names of sole proprietorships and partnerships are registered under the Partnership Act as well as the trade names of corporations.

	1982	1981
Filings under the Act during year:	430	417

Securities Act:

The Securities Act regulates the sale of securities to the public and provides for the licensing of brokers and salesmen.

The following registrations and filings were affected under the Act:

	1982	1981
Licenses issued		
- resident salesmen	29	34
- non-resident salesmen	13	7
- brokers	27	27
Prospectuses registered	200	238
Prospectus amendments registered	30	47
Certificates of exemption from full prospectus requirements	78	73

Revenue:

The Corporations Division collects fees under the various statutes it administers with revenue expected for the fiscal year ending March 31, 1983 of $375,000. Revenue for the fiscal year ending March 31, 1984 will be about the same unless fee schedules are revised.

Other:

Corporations Division staff spend a significant amount of time responding to inquiries from the public as the information filed in the Division is public information. Requests for information about corporations, co-operatives, partnerships, or other matters come from the legal and accounting professions, other Government Departments, police authorities, businessmen, bankers and other financial institutions and the public at large.

Inter-Governmental Conferences:

The Director of Corporations or the Corporations Officer attended the 1982 Annual Conferences of the Canadian Securities Administrators, the Canadian Trust Company Administrators and the Administrators of Co-operative and Credit Union Legislation.

These meetings are invaluable as there is a wealth of knowledge to be gained from administrators in the larger provinces where the various administrators specialize in the administration of securities law, trust company law, etc.

These administrators' conferences are useful for exchanging information and developing uniform policies to ease the burden on business organizations which often operate in several provinces of Canada.

Personnel:

Edison Shea - Director
Merrill Wigginton - Corporations Officer
Sheila MacNevin - Administrative Assistant
Kay Constable - Secretary
Norma MacMillan - Secretary

Report of the Corrections Division

Buildings:

Kings County Jail: Located in Georgetown, P.E.I., constructed in 1910, with a capacity for 14 prisoners, including small designated areas for the separate housing of the occasional female and/or juvenile when required. This jail operates to house overnight lock-up prisoners (police arrestees), male persons from Kings County receiving intermittent (weekend) sentences, and those sentenced or remanded for periods of up to 24 hours on other than weekends. It is opened every weekend from 7:00 p.m. Friday to 7:00 a.m. the following Monday to accommodate weekend prisoners, as well as on court days to accept and hold prisoners sentenced to Sleepy Hollow Correctional Centre awaiting escort. At all other times, there is a correctional officer on standby duty to open the jail and accept persons arrested by the County's police forces. It was necessary to operate this jail on a full-time basis from mid-Feburary to the end of March 1982 to relieve overcrowding at Sleepy Hollow Correctional Centre.

Prince County Jail: Located in Summerside, P.E.I., in the rear and basement of the court house, which was constructed in 1908. It has a capacity for 32 prisoners, including a small designated area for the separate housing of females when required. It is open 24 hours a day, seven days a week, to house overnight lock-up prisoners (police arrestees) for the County's police forces, persons from Prince County receiving intermittent (weekend) sentences, and those sentenced or remanded for periods of less than four days on other than weekends.

During the early part of 1982, it was also necessary to house extra prisoners in this jail due to overcrowding at Sleepy Hollow Correctional Centre.

Sleepy Hollow Correctional Centre: Located six miles northwest of Charlottetown, opened in 1979, this centre houses all lock-up prisoners for Queens County police forces, all sentenced and remand prisoners from Queens County courts, as well as all male and female prisoners sentenced or remanded by Kings County courts to more than 24 hours (male weekend sentences excluded), and all male and female prisoners sentenced or remanded by Prince County courts to more than three days (male weekend sentences excluded).

During the early part of 1982, this centre again experienced overcrowding, requiring both Kings and Prince County Jails to be used as a satellite to handle the overflow.

The Centre has a capacity to hold 66 male prisoners, four female prisoners, six lock-up (police arrestee) prisoners, and a four-room disassociation area.

Juveniles:

Juveniles are the responsibility of the Social Services Branch of the Department of Health and Social Services rather than the Department of Justice. Since that Branch has no juvenile correctional or holding facilities within the Province, juveniles in conflict with the law are held, separate from adult prisoners, in both jails and the Correctional Centre, when authorized by a Family Court judge.

During the year, there were no juvenile admissions to Kings County Jail, eight male and one female juvenile admissions to Prince County Jail, and one male and two female juvenile admissions to Sleepy Hollow Correctional Centre. This compares to 1981 juvenile admissions of 16 male and two female to Prince County Jail, one male to Kings County Jail, and five male to Sleepy Hollow Correctional Centre, and in 1980, juvenile admissions of 14 male to Prince County Jail, no admissions to Kings County Jail, and nine male to Sleepy Hollow Correctional Centre.

Staffing:

Kings County Jail operates with a Superintendent (Correctional Officer III) and two Correctional Officers I, supported when required by relief employees.

Prince County Jail operates with a Superintendent (Correctional Officer III) and five Correctional Officers II, supported when required by relief employees.

Sleepy Hollow Correctional Centre has an established strength of 36 Correctional Officers II, five Shift Supervisors (Correctional Officers III), three Cooks and a Food Services Manager/Instructor, one Stores Supervisor, two full-time and one part-time clerical staff, one Nurse, one Classification Officer, one Programs Officer, one part-time Woodwork Hobbycraft Instructor, one Deputy Superintendent (Correctional Officer IV), and a Superintendent. Correctional Officers are supported by relief employees when required.

One part-time clerical staff was obtained to assist with duties of two full-time clerical staff, and one part-time Woodwork Hobbycraft Instructor obtained for the woodwork/hobby shop. The position of Deputy Superintendent and Classification Officer were filled in the spring of 1982. Eleven (11) permanent Correctional Officer II positions were filled during the first half of the year. One vacant cook position was filled in May, 1982.

The Division is administered by a Director and one secretary.

During the year, one Superintendent retired to pension. The staff turnover rate within the Division was 1.6% compared to 5.0% in 1981 and 13.5% in 1980.

Training:

Kings and Prince County Jails: No training was provided at these jails, as the past training and experience of the staff is considered sufficient, given the nature of their duties.

Sleepy Hollow Correctional Centre: Frequent meetings continue to be carried out to provide staff an opportunity to increase their programming and counselling skills and to keep abreast of modern correctional techniques. Several staff participated in training courses and workshops provided by the Civil Service Commission Staff Development and Training Branch in the areas of budget and financial control, evidence giving, human rights, and community mental health services.

Services:

Kings and Prince County Jails

Food: The caterer of meals delivered to these jails are John P. Macdonald and Andy's Sea Food Restaurant, respectively. The price paid per meal to each was $3.35 plus a delivery fee, if the meals delivered number five or less. Meals delivered by the caterers are supplemented by whole milk, tea and coffee supplied by the Department.

Medical: Dr. Sheldon Cameron continues as physician at Prince County Jail on a fee-for-service basis. Due to a very limited requirement at Kings County Jail, there is no appointed physician. Any available area doctor is called upon if required.

Other: Television is available to prisoners in both jails. Prisoners are issued a tobacco ration upon request. Clergy of any denomination are welcome into the jails at any reasonable hour, or at any time if an emergency exists.

Sleepy Hollow Correctional Centre

Food: An average of six to eight prisoners are employed in the kitchen at any given time, not only to assist the staff in the preparation and serving of meals but also to receive instruction in proper food preparation methods from our qualified instructor.

Medical: Dr. Leo H. Killorn and Nursing Services Officer, Mrs. Helen Flynn, continue to provide medical services to the Centre. Mrs. Flynn has continued to teach the art of cardiopulmonary resuscitation to correctional officers, not only at the Centre but at Kings and Prince County Jails as well. Both doctor and nurse respond to medical emergencies most diligently, regardless of when they occur.

Religious: Through the co-operation of the association of churches in Charlottetown, services are being provided for prisoners and the Centre's chapel is well used. Envoy Herb Goodridge of the Salvation Army and Father Patrick Giddings of St. Dunstan's Basilica have acted as chaplains. Sister Teresa Currie, Mount St. Mary's, is also very active in religious and counselling services to prisoners. Many other religious groups and denominations are providing a valuable and worthwhile service by donating their time and resources.

Voluntary: Services for prisoners have been provided by Alcoholics Anonymous, the Literacy Council, some staff and other groups and individuals who have given generously of their own time.

Other: Television and the daily newspaper are available to all other prisoners except those in lock-up and disassociation. A canteen service is available from which purchases may be made. Prisoners are issued a tobacco ration upon request. The library is well stocked with a wide variety of reading materials for prisoners. The majority of books and magazines were and are obtained through donations from the Canada Council and various groups, organizations, and individuals. The P.E.I. Provincial Bookmobile visits the Centre on a regular basis.

Prisoner Activities:

Kings and Prince County Jails

Due to the general short-term incarceration of prisoners in these jails, programs are limited and consist only of building cleanliness, grounds maintenance, clothes laundering, television, card playing, reading, and a daily outdoor exercise period -- weather permitting.

Sleepy Hollow Correctional Centre

Work: The Correctional Centre continues to provide the opportunity for many prisoners to be occupied in purposeful work. Work at Sleepy Hollow Correctional Centre can be classified into two categories: inside, where the prisoners work in the kitchen, laundry, and general cleaning of the Centre, and outside, where the inmates involve themselves in landscaping and grounds maintenance. The Centre's garden is worked by prisoners under staff supervision and planning. The garden continues to expand, and 1982 was its most successful season to date, providing the Centre with an abundance of fresh vegetables. Large quantities were canned, frozen, and stored for winter use, resulting in a considerable financial saving. The community at large also received large quantities of vegetables. S.H.C.C. regularly supplied the Beach Grove Home for the Aged, the Sunset Lodge (Salvation Army), and the Provincial Home for the Aged in Charlottetown. Riverview Manor, Montague, and Summerset Manor, Summerside, also received generous donations.

Prisoner labour was again used to benefit the community in the Charlottetown area. Sleepy Hollow Correctional Centre prisoners worked steadily at the Pioneer Cemetery on University Avenue, restoring and maintaining the property. Additionally, inmate labour was used to help the senior citizens of the Beach Grove Home for the Aged plant and upkeep their garden on a regular basis. The inmates continued to work at the St. Jean Elementary School preparing the school yard equipment and grounds for the School's opening in the fall.

Volunteer inmate labour continues to be offered to non-profit organizations such as the Council of the Disabled and various community groups. The inmates worked extensively for the Mermaid Community Improvement Committee in the renovations to the local "country school house". Once again, the response from the community for these endeavours has been very positive.

Sports: The greatest prisoner interest is in the areas of floor hockey, softball, and weight lifting. All prisoners, including those in disassociation, are required to indulge in some form of daily exercise, if nothing more than walking and out-of-doors -- weather permitting.

Visiting: Visiting is permitted four evenings per week plus Saturday and Sunday afternoons. Special visits are permitted at other times in cases of emergency or to accommodate persons from out of the Province.

Community Involvement: The community continues, through various organizations, associations and groups to involve themselves in the lives of prisoners, both inside and outside the Centre. These include Alcoholics Anonymous, the Salvation Army, Community Mental Health Services, the Alcohol and Drug Problems Institute, the Literacy Council, the Canada Employment Centre, National Parole Service, and many others.

The recently added program of special education continues to expand. Through the co-operation of Holland College and its Leadership Institute, interested prisoners can receive basic educational instruction, which would enable them to achieve a Grade 12 educational status by writing the General Education Development (G.E.D.) tests that are offered on a regular schedule to the public. Classes are held at the Correctional Centre and instructed by a full-time teacher from Charlottetown Rural High School, who also works part-time in continuing education for Holland College at night. A second teacher commenced teaching full-time at Sleepy Hollow Correctional Centre on a voluntary basis, starting in June, 1982.

The woodwork/hobbycraft instructor, a recent addition to the staff at the Centre, offers a selected number of prisoners instruction to acquire basic woodwork/hobbycraft skills.

Upon expiration of the first aid program under the Donner Canadian Foundation grant on May 31, 1981, St. John Ambulance personnel continued first aid training on their own. In 1982, courses were completed by prisoners as follows:

Course	Duration	No. of Prisoners	Successful
Life-saver	2½ hrs.	22	22
Emergency - Stage II	8 "	14	10
Standard - Stage III	16 "	10	9
Advanced	60 "	1	1

While sufficient resources are not available to do an after-release follow-up on prisoners participating in first aid classes and public duty while incarcerated, some interesting information has been learned:

(a) One of the 1982 classes successfully completed the Advanced First Aid Course, joined the Charlottetown Division on release, and did many hours of duty.

(b) Two of the prisoners who successfully completed the Standard Course in 1982 attended Charlottetown Divisional meetings while still incarcerated.

(c) One prisoner was on duty with the Charlottetown Division since his release.

(d) After two years, one prisoner is still working with the St. John Ambulance Brigade in Charlottetown.

It would appear that some very positive spinoffs are resulting from this program.

Special Events:

Several baseball teams from the surrounding community donated their time and visited Sleepy Hollow Correctional Centre to play the inmates. These were special events and were very successful.

Prisoner Awareness Sunday, sponsored by the Sleepy Hollow Correctional Centre Chaplaincy Committee, was observed on the afternoon of 21 November 1982. An Ecumenical Service was held for prisoners and invited guests. Refreshments were served following the services.

The annual Christmas party for prisoners, also sponsored by the Chaplaincy Committee, was held on 17 December 1982. Gifts were donated by the Salvation Army and Sister Teresa Currie. This service also served to acknowledge the work of our volunteer staff who were invited to attend the festivities. It should be noted as well that the Chaplaincy Committee organized several other ecumenical services at Easter and at other times throughout the year.

General:

There was one prisoner death (suicide) in the Province during the year. This was the first since 1975. Staff dealt with five attempted suicides, compared to eight in 1981 and none in 1980.

There were no escapes from within either jail or the Correctional Centre during the year. There were six runaways from outdoor/community activities, compared to 12 in 1981 and three in 1980. All were apprehended within a short period of time.

The per diem cost of holding a male prisoner in Sleepy Hollow Correctional Centre was $66.18 compared to $53.91 in 1981 and $55.19 in 1980. This figure is arrived at by dividing the number of male prisoner days into the total operating expenses of the Centre, less the cost of matrons. The per diem cost of holding a female prisoner was $106.86 compared to $97.85 in 1981 and $101.48 in 1980. This figure is arrived at by dividing the number of female prisoner days into the cost of matrons and female prisoner meals only. The per diem cost for females is higher because quite often it is necessary to staff the unit around the clock with only one female prisoner in custody.

To arrive at a near accurate per diem figure to house a prisoner at Kings or Prince County Jail is impossible, as every admission is counted as one day for statistical purposes, even though the average stay may be of much shorter duration. In addition, there is no way of assessing the cost of heat and light used by the jail in relation to the overall heating and lighting costs of the buildings, which contain court rooms and other Justice Department offices. It is essential to have a per diem cost for prisoners for Sleepy Hollow Correctional Centre for billing transactions with the Federal Government for those held for violation of federal acts such as Immigration, Parole, etc. This type of prisoner is not generally held at Kings or Prince County Jails.

The increase in the per diem cost of holding a male prisoner at Sleepy Hollow Correctional Centre during the year was due to a 10.55% increase in staff salaries, effective April 1, 1982, as well as less prisoner days to divide into the total operating costs of the Centre. Although prisoner days may be down, many expenditures, such as heat and lights, do not decrease accordingly.

The per diem cost of holding a female prisoner at Sleepy Hollow Correctional Centre also increased, despite more female prisoner days in 1982 than in 1981. This was due to a salary increase of 10.55% for matrons, effective April 1, 1982, plus additional leave benefits for matrons during the year and a 19.7% increase in the number of calendar days that the Female Unit was staffed around the clock because 1982 female sentences were more spread out.

The escorting of lock-up prisoners between the jails and the courts is the responsibility of the arresting police force. Remand and sentenced prisoners escorted between the two county jails, Georgetown, Summerside, and Charlottetown courts, and the Correctional Centre, are the responsibility of the Corrections Division. Prisoners escorted to federal penitentiaries are the responsibility of the Sheriff of the county where the prisoner(s) is being held when ready for escort, except for those convicted of murder, and federal parole violators, where the escorting is done by the Royal Canadian Mounted Police.

Acknowledgement:

To those referred to within this report and the many other organizations, associations, groups, individuals, and government departments and divisions who were also involved in various ways in the operation of the Corrections Division and its programs, the Department is extremely grateful.

Statistics:

The following is a statistical table of the number of prisoner admissions to each jail and the Correctional Centre during the year.

TABLE "A"

	LOCK-UPS	REMAND	SENTENCED	TOTAL
SLEEPY HOLLOW CC				
Male	987	92	578	1,657
Female	47	3	39	89
Juvenile	1 male 2 female	0	0	3
TOTAL	1,037	95	617	1,749
PRINCE COUNTY JAIL				
Male	877	33	139	1,049
Female	81	0	4	85
Juvenile	8 male 1 female	0	0	9
TOTAL	967	33	143	1,143
KINGS COUNTY JAIL				
Male	243	2	29	274
Female	10	0	1	11
Juvenile	0	0	0	0
TOTAL	253	2	30	285
TOTAL 2 JAILS + SLEEPY HOLLOW CC				
Male	2,107	127	746	2,980
Female	138	3	44	185
Juvenile	9 male 3 female	0	0	12
TOTAL	2,257	130	790	3,177

Sentenced prisoners to all institutions in 1982 totalled 790 compared to 878 in 1981 and 876 in 1980.

Female prisoner admissions in 1982 totalled 188 compared to 137 in 1981 and 111 in 1980. The number of days served increased to 960 from 663 in 1981 and 485 in 1980.

There were 45 transfers from Prince County courts to Sleepy Hollow Correctional Centre in 1982 compared to 51 in 1981 and 258 in 1980. There were 71 transfers from Kings County courts compared to 84 in 1981 and 111 in 1980. The lesser number of transfers in 1982 and 1981 was because of the crowded conditions at Sleepy Hollow Correctional Centre. A number of prisoners who would have normally been transferred immediately following conviction were required to serve part or all of their sentence in their county jail.

The number of prisoners held before transfer to a federal penitentiary was 21 in 1982 compared to 12 in 1981 and 6 in 1980.

Parole for provincial inmates is handled by the National Parole Board (federal) from their regional office in Moncton, N.B. The following is a statistical table of parole relating to our sentenced inmates during 1982.

TABLE "B"

Parole Granted	33
Parole Denied	12
Day Parole Granted	20
Day Parole Denied	3
Day Parole Extended	4
Parole Suspension(cancelled)	2
Parole Revoked	7

The following is a statistical table of the number of days served by prisoners in 1982 in each jail and the Correctional Centre under the categories of: (1) lock-up (police arrestees held prior to court appearance); and (2) remand/sentenced, as they compare to 1981 and 1980.

TABLE "C"

SENTENCED AND REMAND DAYS

JAIL	1982	1981	1980
Prince County	2,158	3,211	387
Kings County	142	136	151
Sleepy Hollow C.C.	22,960	23,688	18,261
TOTAL	25,260	27,035	18,799

LOCK-UP DAYS

JAIL	1982	1981	1980
Prince County	997	1,048	1,036
Kings County	268	490	408
Sleepy Hollow C.C.	1,089	1,399	989
TOTAL	2,354	2,937	2,433

The following is a statistical table on all 1982 lock-up prisoners (police arestees held prior to court appearance) and the percentage involving alcohol related offences:

TABLE "D"

KINGS COUNTY JAIL

Total admissions	253
For intoxication	147 = 58.10% of total
Number of individuals involved	123
Times incarcerated	once (105) 2(16) 3(0) 4 or more(2)
For other alcohol related offences	55 = 21.73% of total
For non alcohol related offences	51 = 20.15% of total
Intoxication + other alcohol related offences	202 = 79.84% of total

PRINCE COUNTY JAIL

Total admissions	967
For intoxication	717 = 74.14% of total
Number of individuals involved	510
Times incarcerated	once (400) 2(64) 3(26) 4 or more(20)
For other alcohol related offences	127 = 13.13% of total
For non alcohol related offences	123 = 12.71% of total
Intoxication + other alcohol related offences	844 = 87.28% of total

SLEEPY HOLLOW CORRECTIONAL CENTRE

Total admissions	1,037
For intoxication	632 = 60.94% of total
Number of individuals involved	335
Times incarcerated	once (257) 2(41) 3(11) 4 or more(26)
For other alcohol related offences	138 = 13.31% of total
For non alcohol related offences	267 = 25.75% of total
Intoxication + other alcohol related offences	770 = 74.25% of total

TOTAL OF TWO JAILS + CORRECTIONAL CENTRE

Total admissions	2,257
For intoxication	1,496 = 66.28% of total
Number of individuals involved	968
Times incarcerated	once (762) 2(121) 3(37) 4 or more(48)
For other alcohol related offences	320 = 14.18% of total
For non alcohol related offences	441 = 19.54% of total
Intoxication + other alcohol related offences	1,816 = 80.46% of total

*Number of individuals involved does not equal total of 2 jails + correctional centre because when combining them a certain individual may have been in 2 or even 3 of the different institutions and therefore is now counted as 1 instead of 2 or 3 individuals involved. The same applies for totals in the times incarcerated.

The total number of lock-up admissions totalled 2,257 compared to 2,460 in 1981 and 2,384 in 1980.

REPORT OF PROBATION AND FAMILY COURT SERVICES DIVISION

General:

During 1982, the number of Probation and Family Court Services personnel remained unchanged. Two Family Counsellors and seven Probation Officers carry out the programs of the Division under the direction of the Director of Probation and Family Court Services. One of the Probation Officers working out of the Summerside office also performs functions of a Family Counsellor.

Family Counsellors continued to operate from Charlottetown as a base with Family Court Services being provided on a scheduled basis from the Regional Services Centres in O'Leary, Montague and Souris as well as from the court house in Summerside and Alberton.

Probation Officers carried out their duties from full-time offices in Charlottetown, Summerside, and Montague with part-time offices being maintained in Souris and Alberton.

Probation Services Workload:

The following is a statistical indication of the activities performed by Probation Officers in carrying out their primary responsibilities in the areas of Presentence Investigation Reports, Probation Supervision, the Temporary Absence Program, and community related activities. However, it does not reflect the quality or actual nature of responsibilities carried out.

Presentence Reports:

During 1982, Probation Officers conducted assessments and investigations for and submitted 82 presentence reports in response to requests from both Provincial and Supreme Courts. This compared with 109 reports in 1981 and 124 in 1980.

Probation Supervision:

On January 1, 1982, there were 467 individual adults (16 years of age and over) under the supervision of Probation Officers in the Province with 485 new cases added during the year. This compares with 527 new cases added during 1981 and 528 cases in 1980.

On December 31, 1982, 473 individuals remained under active supervision of Probation Officers. This reflects an increase of five individuals over December 31, 1981.

Community Service Orders:

Provincial and, on occasion, Supreme Court Judges continued to use as an integral part of their sentencing practices the concept of community service work which has expanded since its initiation in Prince Edward Island in 1977.

Essentially, the Court requires an offender, whether in lieu of or in addition to some penalty, to perform voluntarily some form of community service or work as a condition of a probation order. Probation Officers arrange appropriate service, taking into consideration any strengths or talents an offender may have and supervise the activity as well as assessing its quality. A prime consideration in the community service concept is to place responsibility on the offender to restore, at least in part, the harm done whether for the victim or the community at large. Wherever possible, attempts are made to have offenders perform community service work for the victim(s) of their criminal behavior.

During the year, 110 individuals were ordered to perform community service. This compared with 172 such orders in 1981. These orders ranged from five to 200 hours. Most frequently used were orders requiring 40 hours. In total, these individuals were ordered to perform 5,340 hours of community service -- an average of 48.5 hours each. In the past year, the Courts have continued to make it possible, in appropriate situations, to have community service work converted to a monetary payment. This payment is based on the provincial minimum wage. Such payments go toward the purchase of supplies and goods that are used by other offenders in carrying out their community service. On occasion, contributions are made to charitable organizations or needy causes.

During the past year, many agencies and organizations across the Island were recipients of community service. Activities performed included service for senior citizens, handicapped individuals, as well as community and youth groups. Agencies and organizations that could benefit from this form of service are encouraged to contact Probation Services to explore their interests.

Restitution:

Of the 485 individuals coming under probation supervision during the year, 269 were required to pay restitution. Restitution ordered totalled $87,300. Two cases involved restitution; one was $18,404 and the other $5,960. The payment required of the other 267 individuals averaged $236.

Although restitution has been a part of sentencing in this province for more than 10 years, it has received increased emphasis in recent years, arising in part out of increased concern for victims of crime.

Essentially, the offender is required, as a condition of probation, to pay to the Clerk of the Court an established amount. Probation Officers oversee and supervise payment acting in an enforcement capacity wherever appropriate.

In summary, approximately 75% of all individuals coming under probation supervision, as ordered by Provincial and Supreme Courts, were required to pay restitution and/or perform community service.

Temporary Absence Program:

Staff of Probation Services assessed and investigated 131 applications from sentenced inmates of the Sleepy Hollow Correctional Centre under the regular temporary absence program. Of these, the Department of Justice authorized 67 temporary absences involving the selected release without escort of 54 individuals. This compares with 100 releases involving 78 individuals in 1981. Of the 67 releases, 14 were for purposes of employment or paid training; five for educational related purposes; 16 for purposes of treatment (6 alcohol, 1 psychiatric, 9 medical); 30 for rehabilitative humanitarian reasons; and two for other purposes.

The release privileges were abused in one case with new charges related to drinking and driving being laid.

The above releases do not include releases where inmates were escorted by Correctional Officers, Probation Officers, or under the general supervision of community supervisors in a volunteer capacity such as with the St. John Ambulance First Aid Program, Alcoholic Anonymous Programs, etc. As well, these releases do not include inmates released under the Christmas Temporary Absence Program outlined below.

Christmas Temporary Absence:

The Christmas Temporary Absence Program established in 1971, where sentenced inmates in Provincial Institutions are provided the opportunity of spending some time with family and/or friends, was continued in 1982.

Of the 53 inmates that would have been serving a sentence in Sleepy Hollow Correctional Centre or Prince County Jail over Christmas, 40 were provided the opportunity of being released for varying periods of time (8 to 52 hours). No inmates were held in Prince County Jail and Kings County Jail on Christmas Day. There were four inmates being held at Sleepy Hollow Correctional Centre for other reasons. Three inmates did not return as required on time. Five others violated conditions of their release by consuming alcohol or other intoxicants.

Family Court Services:

Since the proclamation into law of the Family Law Reform Act in December, 1978, the demands on Family Counsellors increased both in terms of number and nature of assignments.

Family Counsellors continued to provide support services for the Family Division of the Prince Edward Island Supreme Court. These services are primarily counselling, investigative, and supervisory in nature.

More specifically, these responsibilities include:

(a) Performing intake procedures at the Family Court level, assessing and screening cases, and providing an information and counselling service to individuals preparing for the Court process;

(b) Conducting investigations in custody, support and related matters for the preparation of reports for Family Court;

(c) Supervising and enforcing orders made by the Family Court;

(d) Marital counselling in crisis situations that may or may not require judicial attention;

(e) Performing an educational public relations role in interpreting the functions of the Family Court to individuals and community organizations.

Public Relations and Community Development:

As in previous years, Probation Officers and Family Counsellors continued to be involved in a variety of activities and organizations such as Big Brothers and Big Sisters, Boys and Girls Clubs, Criminology and Corrections Associations, Wood Corporation, Employment Training Corps , Driver Rehabilitation Courses, Charlottetown Youth Centre, and Transition House among others which provided an opportunity to interpret the functions of Probation and Family Court Services as well as fostering the growth and support of community agencies.

Family Counsellors participated in a range of activities directed toward an increased awareness of the functions of Family Court Services and the general operations of the Family Court. These activities were related primarily to those agencies and organizations that have need to use the services of the Court.

New and Continuing Initiatives:

Justice Resource Service: A highlight of the year was the entering into an agreement with the Federal Ministry of the Solicitor General through its Consultation Centre for a three-year information and consultation service called the Justice Resource Service. This service, operating out of the Department of Justice under the Probation and Family Court Services Division, is staffed by a full-time co-ordinator. This province-wide service, cost-shared by the federal and provincial governments, is to focus on alternatives, crime prevention, community involvement and public legal education -- particularly related to the areas of domestic violence, vandalism, and victims of crime. The co-ordinator of this service is Ms Julie Dodd who can be reached at the Department of Justice in Charlottetown.

Victims of Crime: The Department of Justice, through the Probation and Family Court Services Division, entered into an agreement with the Federal Ministry of the Solicitor General's Research Division to carry out research within the various components of the criminal justice process and related agencies on the needs of victims of crime and how victims are currently served with a view to reporting on what, if any, changes are needed to improve services to victims of crime in the Province.

While planning and preliminary studies were carried out in late 1982, the actual research will be conducted in early 1983. The interest, assistance, and co-operation of many agencies and individuals has been very encouraging. This activity is primarily funded by the Federal Ministry.

Sentencing Study: Another study to get underway in 1983 with the co-operation and assistance, financial and otherwise, of the Federal Department of Justice involves a possible comprehensive review of the criminal justice process with emphasis on sentencing, particularly the use of and experiences related to restitution and community services. This is particularly timely in light of the comprehensive Criminal Code review now underway. It should also be helpful in having a clearer picture of the criminal process and an improved profile of the criminal offender in the Province.

Justice Statistics and Information: The Department of Justice, through this Division, has been very involved with the Canadian Centre for Justice Statistics. The assistance, financial and otherwise, of its Technical Assistance Directorate, in examining the present methods of compiling, storing, and collecting justice related statistics and information with a view to considering an Integrated Justice Information System for the Province, has been very helpful. A report of the Province's needs and requirements in this regard should be ready in February, 1983.

Public Legal Education and Information: Probation and Family Court Services continued to play a lead role in developing and distributing material as well as encouraging the involvement of interested and concerned groups and individuals in approaches to make the law and legal process more easily understood and accessible to individuals, in particular, and the public generally. These activities included information displays across the Province at exhibitions and fairs, developing material for community schools, serving as resource people at law-related events, as well as developing leaflets on selected topics for general distribution.

Young Offenders Act: The Director of the Division has been assigned general responsibility for the implementation and administration of the Young Offenders Act passed in Parliament in July, 1982. Proclamation of this Act, which is replacement legislation for the Juvenile Delinquent Act, is tentatively set for October, 1983.

The Act will require significant changes in how young offenders are dealt with in this province. As well, by April, 1985, the Act will raise the upper age of young or juvenile offenders to under 18 instead of the current age of under 16. While the Act will have obvious financial, staff, and program demands, it can be seen as an opportunity to develop meaningful programs for youthful offenders.

The Future: Looking to 1983, this division will continue the initiatives referred to above with a view to refining and improving services to offenders, victims of crime, government and community agencies and groups, as well as the public generally.

REPORT OF THE LAW REFORM COMMISSION

The Prince Edward Island Law Reform Commission is established under the Law Reform Commission Act, R.S.P.E.I. 1974, Cap. L-8 and comprises three Commissioners. The Commissioners are the Honourable John P. Nicholson, Chief Justice of the Supreme Court of Prince Edward Island (Chairman); Ms. Diane O. Campbell, and John McQuaid, Esq.

Mr. Hugh MacIntosh is Counsel to the Commission. The secretary to the Commission is Miss Cathy Murnaghan. The Commission's address is 186 Queen Street, P.O. Box 1628, Charlottetown, Prince Edward Island, C1A 7N3. Telephone, (902) 892-0971.

Projects 1982:

The Law Reform Commission dealt with the following matters as its 1982 program;

1. Trustee Act and Companies Act: A review of statutory powers and protections conferred under the Trustee Act has been undertaken. This review is linked to a similar inquiry into the administrative duties and powers of personal representatives and Parts I and II of the Probate Act, R.S.P.E.I. 1974, Cap. P-19.

Sections 2 and 3 of the Trustee Act, R.S.P.E.I. 1974, Cap. T-9 have been researched. These sections deal with the investment powers of trustees and, in respect to Section 2, also personal representatives guardians and committees. These powers are incorporated into wills, trust deeds and other similar instruments unless excluded. The investment powers of companies and their directors under the Companies Act, R.S.P.E.I. 1974, Cap. C-15, Section 13(I)(V) and otherwise, have been examined concurrently.

The Commission has under consideration a proposal that, unless trust instrument otherwise requires, statute should direct trustees to invest if this can be done consistently with the term and purposes of the trust. The proposal contemplates that statute would empower a trustee not otherwise instructed to select, retain,and vary any type of property as an investment so long as the trustee acted prudently in the circumstances. Under this proposal, the trustee would be restricted only by this standard in the type of property that might be held as part of the trust fund and would not be further restricted to particular types of property specifically enumerated as is the case now under the Trustee Act, Section 2.

This approach is gaining general acceptance in other provinces and has been endorsed by the Uniform Law Conference of Canada. The statutory expression of such a trustee investment standard would thus read like that for companies and their directors under such recent legislation as Co-operative Associations Act, Stats. P.E.I. 1976, Cap. 7, Section 15(1)(m) and Canada Business Corporations Act, Stats. Canada 1974-75, Cap. 33, Section 117(1). It will be appreciated, however, that the application of the standard would have to account for the different circumstances of the two offices.

Working papers are now in various states of completion in respect to the investment of trust funds in trusts that provide for "income" to go to one beneficiary for a term and thereafter for the "capital" to go to another beneficiary. The subjects covered include:

(a) the "rule" in Allhusen v. Whittell as referred to in Re Lotzkar (1966) S.C.R. 69.

(b) the "rules" in Howe v. Earl of Dartmouth and associated matters as indicated by Re Lennox (1949) S.C.R. 446 and Lottman v. Stanford et al. (1980) 31 N.R. 1

(c) the application of the Apportionment Act, R.S.P.E.I. 1974, Cap. A-12

(d) the characterization of "capital" and "income" in such situations as Re Hardy (1956) 4 D.L.R. (2d) 721 both when the actions of the trustee can and cannot affect the outcome.

The problems associated with the usual ability of trustees to invest in corporate shares either under the Trustee Act, Section 2(1)(o) and (p) or the particular investment clause of the trust instrument have occasioned a general study of the principles of corporate finance with particular reference to the Companies Act, Sections 3(d), (e), (4), 13(1)(s), 27, 28(b), 62, 65, and 79.

2. Highway Traffic Act and Insurance Act:

(a) Highway Traffic Act, R.S.P.E.I. 1974, Cap. H-6, Sections 270, 240, and 310. A review of the Uniform Highway Traffic Act: Responsibility of Owner and Driver of the Uniform Law Conference of Canada lead to a consideration of these sections. Sections 240(1) and 310 overlap. The Commission did not re-consider the legislated policy of these sections or their compatability with the Canadian Charter of Rights. The Commission's effort was directed to the functioning of the sections. The Commission recommends that Sections 240(1) and 310 be consolidated into a new section. The new section would compel the owner to divulge the name and address of the driver or the person who last had the vehicle to his knowledge prior to the violation. If the owner had no knowledge of either identity this would be a defence to a prosecution for failure to divulge the identities.

(b) Highway Traffic Act, Section 308. This Section deals with compensation to victims of hit and run automobiles. The Section has been differently interpreted in P.E.I. than in other provinces and fails to reflect the changed role of the Registrar in relation to the scheme.

The Commission recommends that these matters be rectified by legislation.

(c) Highway Traffic Act, Sections 271 and 272. These Sections now assist the victim of automobile injuries in a civil proceeding for damages only if the victim can prove that the accident took place "on a highway" and that the owner consented to the driver driving the automobile that inflicted the injuries.

The Commission recommends the elimination of the "highway" requirement and the proof of consent requirement. Sections 271 and 272 could be reorganized along the following lines.

271. A driver of a motor vehicle is liable for loss or damage sustained by any person by reason of the operation of the motor vehicle unless the driver proves that the loss or damage did not arise through his negligence or improper conduct.

272.(1) An owner of a motor vehicle is liable for loss or damage sustained by any person by reason of the operation of the motor vehicle unless the owner proves that

(a) the loss or damage did not arise

(i) through the negligence or improper conduct of the driver of the motor vehicle; and

(ii) through the negligence or improper conduct of the owner of the motor vehicle, or

(b) the motor vehicle was without the consent of the owner in the possession of some person other than the owner.

(2) This section does not preclude the adjustment of the loss or damage between the driver and the owner or entitle the person who suffers the loss or damage to more than one indemnity from the driver or the owner or both of them.

272.1 (1) In Sections 271 and 272, "driver" includes a a person who leaves a motor vehicle standing in a place or in a manner that is not reasonable in the circumstances and "operation" includes such conduct.

(2) Notwithstanding Clause 137(a), Sections 271 and 272 apply whether or not the motor vehicle is operated on a highway.

(d) Highway Traffic Act, Sections 275, 309 and Insurance Act, Section 226. Highway Traffic Act, Section 275 requires a gratuitous passenger to prove that the driver of his automobile was grossly negligent (not merely negligent) in inflicting the passenger's injuries before civil damages can be awarded. Insurance Act, Section 226 excludes coverage to family members who are passengers or persons insured in respect to the insured automobile.

The Commission proposes that all three Sections be repealed and that the Insurance Act precludes the introduction of similar restrictions in insurance contracts and so extend coverage to family members or other passengers.

3. Workers Compensation Act, Section 11: The following resolution was passed at the 1982 annual meeting of the Uniform Law Conference of Canada:

> "Where two or more persons have caused an injury and one or more of those persons is exempt from contribution by reason of the Workers' Compensation Act, the liability of those who remain responsible to pay the common law damages for the injury shall not be the full common law damages but only that portion that remains after the ascribed fault of those who are exempt from contribution is first calculated and deducted."

The subject matter of this resolution was discussed with representatives of the Workers' Compensation Board. The Commission was invited to submit its proposals in writing to the Workers' Compensation Act Review Committee.

4. Quieting Titles Act, Vendors and Purchasers Act Proposals, Judicial Review Act Proposal: Draft legislative language was prepared to reflect the Commission's earlier proposals on these subjects.

5. Judgment and Execution Act: A Charlottetown lawyer has submitted a proposal to the Commission that P.E.I. enact legislation to allow an execution creditor of one joint tenant who dies to execute his judgment against the lands notwithstanding the death and that the surviving joint tenants are not debtors. The Commission is presently assessing the proposal.

Acknowledgements:

The Commission appreciates the assistance of the Department of Justice to the Commission's research efforts.

The Commission wishes to thank M. Raymond Moore, the Legislative Counsel, for his assistance in scrutinizing proposed draft Acts.

REPORT OF CHARLOTTETOWN & SUMMERSIDE REGISTRY OFFICES

The division's responsibilities are:

- to administer the Kings, Queens, and Prince County Land Registry Offices;
- to maintain a current computer record of all registered land owners on Prince Edward Island, both numerically and alphabetically;
- to maintain and keep current a series of property ownership maps for Prince Edward Island;
- to organize, maintain, and boundary survey an inventory of provincially owned crown property;
- to operate a Map Library which sells whiteprint copies of property maps, National Topographic Series maps, hydrographic charts, and provide customer custom whiteprinting services;
- to operate a co-ordinate survey monumentation system and provide advice and/or surveys for government departments;
- to provide assistance and response to all land related inquiries coming from government agencies, private enterprises, and the public.

	1982	1981
Documents Registered	9,537	10,596
Survey Plans Filed	147	204

REPORT OF JUDICIAL DIVISION

Function and Organization:

This division is responsible for the design and maintenance of an administrative structure that meets the needs of all courts throughout Prince Edward Island. Its primary and continuing objective is to make appropriate and effective use of personnel and other resources to develop and manage a comprehensive court services program throughout the Province.

The overall strength of personnel in the division has been reduced to 29 by the Department's decision not to fill the position left vacant by the retirement of T. L. Fitzgerald. The distribution of personnel is as follows:

	Prothonotary	Legal Services Officer	Judicial Clerk 2	Judicial Clerk 3	Court Stenographer	SY4	SY2	CL2	Sheriff	Clerk & J.P. (part-time)	TOTAL
Charlottetown.....	1	5	2	1	7	1	1	-	1	-	19
Summerside.....	-	1	1	-	2	-	-	1	1	-	6
Alberton.....	-	-	-	-	-	-	-	-	-	1	1
Georgetown.....	-	-	-	1	-	-	-	-	1	-	2
Souris.....	-	-	-	-	-	-	-	-	-	1	1
	1	6	3	2	9	1	1	1	3	2	29

The personnel provide the courts with support services, some of which are as follows:

1. GENERAL ADMINISTRATION
   - budget and expenditure control
   - personnel transactions
   - equipment supply, purchases, etc.

2. JUDICIAL ADMINISTRATION
   - taxation of costs on solicitor-client and party-party basis
   - bankruptcy and discovery
   - supervision over court officers
   - Justices of the Peace.

3. COURT RECORDS
   - registration and maintenance

4. DOCKETING AT SUPREME COURT LEVEL.

5. STENOGRAPHIC AND SECRETARIAL AND CLERK OF THE COURT.

6. SHERIFF SERVICES
   - jury impanellment
   - process servers
   - execution of court orders.

7. FINANCIAL RECORD MANAGEMENT
   - approximately $3 million annually at both court levels.

SUPREME COURT:

ENTRIES FISCAL YEAR END MARCH 30

Fiscal Year	Cases	Liens	Chattel Mortgages	Book Debts	Judgments	Divorces
1974	1,297	4,942	8,074	567	579	112
1975	1,603	4,141	7,771	586	702	130
1976	1,568	4,370	8,686	1,147	811	164
1977	1,781	4,952	10,141	853	884	173
1978	1,715	5,954	13,623	1,009	966	166
1979	2,092	5,510	14,432	1,160	1,034	220
1980	1,971	5,166	13,605	1,391	955	194
1981	2,446	5,660	12,572	1,371	1,182	210
1982	2,538	6,047	10,212	1,360	1,193	233
*	2,146	5,501	10,801	1,239	1,166	178

* April 1, 1982 to January 31, 1983

SUPREME COURT - ESTATES DIVISION:

Approximately 519 petitions were filed during the year 1982, resulting in 476 court grants on behalf of Estates, with a total probate value of $25,789,380.12.

Forty-three court hearings were held in Charlottetown and Summerside.

Estates Division fees collected and deposited to the credit of the Minister of Finance for the Province totalled $81,675.20

JUDICIAL APPOINTMENTS AND RETIREMENTS:

The Honourable Mr. Justice George J. Mullally, Souris, Prince Edward Island was appointed Justice of the Supreme Court of Prince Edward Island on April 29, 1982.

Ms. Collette A. Vessey was appointed as Registrar, Estates Division of the Supreme Court on August 2, 1982, replacing Mrs. Anne M. Ayers.

Mrs. Anne M. Ayers retired on May 28, 1982, having held the position of Registrar, Estates Division of the Supreme Court for nearly 16 years. Mrs. Ayers was hired on September 27, 1966.

Mr. Terrence L. Fitzgerald retired on June 15, 1982, having held the position of Deputy Prothonotary of the Supreme Court of Prince Edward Island. He was employed with the Department of Justice since July 19, 1965.

PROVINCIAL COURT FINES COLLECTED:

	1981	1982
Charlottetown -	$473,923.00	$458,465.87
Summerside -	258,285.00	278,645.23
Georgetown -	76,333.00	77,358.31

REPORT OF THE PUBLIC DEFENDER

This was the ninth year of the Public Defender Program in Prince Edward Island. The service is cost-shared under a federal-provincial agreement which applies in all provinces.

Objective:

The objective of the program is to ensure equality before the criminal law by making lawyers available to individuals who could not otherwise retain counsel because of financial reasons.

Eligibility:

Eligibility for legal assistance is determined by a flexible test which takes into account the applicant's financial ability to afford the probable costs of representation by private counsel.

The application process is kept as simple as possible in order to serve those who may be the most in need of representation but the least able to cope with bureaucracy. The policy objective is to complement the service provided through the private Bar without financial competition.

To obtain service, the applicant must contact a staff lawyer in the same manner as he would a private practitioner. In some cases, the applicant is referred by the court. Contrary to a common misconception, the courts do not assign cases to Legal Aid staff lawyers. Although Legal Aid has become an integral part of the justice system, the program is run independently from the courts.

Choice of Counsel:

Legal services are provided by three staff lawyers. Private counsel are retained in a small percentage of cases where a scheduling problem or a conflict prevents a staff lawyer from acting. The applicant is given a choice of representation by a staff lawyer or a private practitioner only in murder cases.

Cost-Sharing Formula:

The federal-provincial cost-sharing agreement is currently under negotiation. Until a new agreement is reached, the present agreement will continue but without provision for cost escalations. There have been several adjustments to the cost-sharing formula since it was initiated in 1973. Prince Edward Island has consistently recovered approximately 90% of criminal Legal Aid expenditures from the Federal Government each year since the agreement began. The high recovery ratio reflects the low per capita cost of legal aid in this province. Some provinces with significantly higher costs recovered less than 50% of expenditures under the same formula. On a national basis, Canada's share of criminal legal aid expenditures is approximately 50%.

Cases Completed:

The following cases were completed during the year. The definition of a case varies from province to province. In this

province each separate charge is counted as a separate case. An applicant may have several charges arising from one incident. Likewise, charges from several incidents are often brought at one time. In either situation, the number of cases is equal to the number of charges. An appeal is also recorded as a separate case.

	NUMBER COMPLETED		
	(1979-80)	(1980-81)	1981-82
Unlawful homicide (including motor vehicle)	3	1	7
Matters under the Juvenile Delinquents Act	2	26	6
Robbery	9	3	16
Break and enter, Theft, Possession of stolen property	382	375	416
Drunk and impaired driving	100	106	99
Other motor vehicle offences	50	33	35
Rape	-	-	4
Narcotics	32	62	58
Fraud and false pretences	89	112	175
Dangerous and prohibited weapons	9	10	22
Escape and unlawfully at large	13	13	27
Cause disturbance	10	30	29
Assaults	33	26	53
Arson	1	1	2
Resisting arrest	11	8	7

	NUMBER COMPLETED		
	(1979-80)	(1980-81)	1981-82
Property damage	49	49	65
Breach of probation	10	15	21
Others	19	11	33

Summary of Legal Aid:

	(1979-80)	(1980-81)	1981-82
Individuals whose cases were completed	375	470	554
Individuals who received representation on more than one occasion	34	27	49
Individuals who received representation on more than two occasions	4	5	4
Individuals who received representation on more than three occasions	-	-	1
Applications approved	408	502	608
Cases completed	825	881	1,075
Cases where private counsel participated at some stage	13	29	25
Percentage of total cases handled in whole or in part by private counsel	1.5%	3.4%	2.3%
Number of private counsel who participated	6	7	15
Cost of services rendered by private counsel	$2,328.00	$3,025.55	$8,323.90

NUMBER OF APPLICATIONS APPROVED BY REGION:

	(1979-80)	(1980-81)	1981-82
Charlottetown	250	277	376
Summerside	116	173	144
Alberton	25	26	32
Georgetown	12	17	46
Souris	5	9	10

AGE OF RECIPIENTS:	(1979-80)	(1980-81)	1981-82
16 - 19 years	36%	42%	35%
20 - 25 years	27%	29%	31%
over 25	37%	29%	34%

EXPENDITURES:	(1979-80)	(1980-81)	1981-82
Cost-shareable criminal legal aid expenditures	$86,899.00	$100,639.00	$121,388.28

REPORT OF FAMILY LEGAL AID

This is the second annual report of the Family Legal Aid Program in Prince Edward Island. The program was launched as a pilot project under a one-year agreement between the Special Projects Legal Aid Division of the Federal Justice Deparment and the Justice Department of this province. Direct federal funding of the program terminated on September 31, 1981. The service has been continued as a provincial program since that date.

Program Structure:

The Family Legal Aid Program is an extension of the public defender program which has provided cost-shared legal aid in criminal matters in this province since 1973. One additional staff lawyer has

been hired, bringing the total staff to three full-time lawyers and one secretary. Administrative and accounting services are provided by the Provincial Justice Department.

The three staff lawyers are contract employees but not civil servants.

The program is administered by the Director of Legal Aid (a staff lawyer), who reports to the Deputy Minister of Justice.

Objectives:

The objective of funding legal aid in family law is similar to the stated objective of criminal legal aid -- to ensure equality before the law. In particular, the objective is to enable individuals to exercise and protect their basic rights under family legislation. The program attempts to make free legal services available to eligible persons to the extent that a reasonable man of modest means would pay his own lawyer if faced with the same legal problem. This is the stated objective of legal aid throughout Canada. The achievement of that objective is subject to staff and budgetary limitations. The policy of restraint and cutbacks in government programs was already in place when this program was being developed. Consequently, this province has been unable to achieve the level of service provided in provinces where family legal aid was fully established during the expansionary period of the early to mid 70's.

Eligibility:

Eligibility is restricted to persons already on social assistance or who would be eligible for such assistance if required to pay the probable cost of representation by private counsel.

Priority for assistance is given to applicants whose legal problem involves dependent children.

Legal aid may be refused in any situation where a reasonable individual of modest means faced with a similar problem would not pay from his own pocket to obtain the assistance requested.

Experience to date has shown that the greatest restriction is the lack of staff to provide assistance even where financial eligibility is established.

Coverage:

Coverage is limited to matters within the jurisdiction of the Family Division of the Supreme Court. Generally, this involves the

Divorce Act, Family Law Reform Act, and the Family and Child Services Act. Priority is given to any application under the latter Act because of the potentially serious consequences involved in the outcome of each case.

Involvement of Private Counsel:

Legal Aid staff lawyers may represent only one party in any dispute. The same policy applies to law firms in private practice. In urgent cases where more than one party seeks legal aid, private counsel may be authorized to act on a tariff basis. The budget for retaining private counsel is very limited. Therefore, the number of cases in this category is small. Payment under the tariff is less than half the hourly rate normally charged by private counsel.

Legal Aid in Other Provinces:

Before the introduction of family legal aid in this province, a Prince Edward Island resident requiring legal representation in another province would not be eligible for the free assistance available to a resident of that province. Under an inter-provincial agreement, residents of Prince Edward Island now have the advantage of obtaining legal aid in any province of Canada, provided the service would be covered for a non-resident in this province.

The Number of New Files Opened:

There were 150 new files opened in 1981-82. This number includes only those cases where legal action was commenced through correspondence, negotiation, or court action. The figure does not include telephone and office consultations where advice was given without opening a file. The decline in new files from 222 in the preceding year reflects several aspects of the nature of family law and the capacity of the program.

Family cases tend to be difficult to settle quickly. Most cases take several months to resolve and in some, work proceeds beyond the year in which the file was opened.

The fact that problems often arise from changes in the circumstances of the parties not only makes settlement more difficult, but it may also mean that the same case will require further service from time to time. Consequently, the capacity of the program to take new cases was less than in the initial year of the program.

FAMILY LEGAL AID ACTIVITY:
April 1, 1981 to March 31, 1982

	(1980-81)	1981-82
1. Number of Files Opened:	222	150
2. Type of Application:		
Matrimonial (Divorce Act and Family Law Reform Act)	82%	87%
Children's Protection Act	9%	11%
Other	9%	2%
3. Regional Distribution of Service:	No. of Files	
Charlottetown	158	105
Summerside	64	45
4. Ratio of Male to Female Clients:		
Male	12%	15%
Female	88%	85%
5. Number of Cases Where Private Counsel Acted Through Legal Aid	7	9
6. Number of Inter-Provincial Requests:		
To other provinces	2	4
From other provinces	4	4
7. Total Legal Aid Expenditures:		
Criminal and Family April 1, 1981 to March 31, 1982 .	$124,768.00	$152,651.96